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South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

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STATE DOCUMENTS

Vol. 9

June 9, 1992

No. 21

## CONTENTS

### Session in Review

Legislation Enacted This Session.....	2
Ratified Legislation.....	11
Left on the Senate Calendar.....	16
Left on the House Calendar.....	20
Left in House Committees.....	22
Tabled by the House.....	25

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## Legislative Update, June 9, 1992

### Legislation Enacted This Session

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The following legislation has been enacted by the General Assembly during the 1992 session.

1992-1993 Appropriation Act (H.3044, Rep. Pat Harris). Here are some highlights of the \$3.7 billion state budget for fiscal year 1992-93:

#### Revenues:

- \$37.8 million from the continued operation of the Barnwell Low Level Nuclear Waste Facility beyond Dec. 31, 1992.
- \$10.8 million from delaying the capital gains tax reduction.
- \$8 million for including the earned interest on the SHIMS Fund.
- \$1.2 million from 5 percent surcharge on rental cars.
- \$25 million from the one-time use of gasoline tax revenue to help pay-off the Hugo debt.
- \$4.5 million from \$5 per ticket additional assessment on traffic tickets.
- \$35.8 million from increase in radioactive waste disposal fees.
- \$3.5 million from increase in hazardous waste disposal fees.
- \$21.7 million for biennial licensing for the Secretary of State, the Insurance, Tax and ABC commissions.
- Eliminate nursing home bed fees after Oct. 1 at a cost of \$9.8 million.

## Legislative Update, June 9, 1992

### Expenditures:

- \$32.8 million to pay off Hurricane Hugo note.
- Restores General Reserve Fund to minimum of \$33 million (1 percent of the general fund revenue; constitutionally mandated).
- Restores Capital Reserve Fund to \$66 million (2 percent of general fund revenue; constitutionally mandated.)
- \$29.4 million for 2 percent across-the-board pay raise for state employees, which goes into effect October 1. A December bonus of approximately \$290 for employees making less than \$25,000 and about \$150 for employees making more than \$25,000 is included in the total.
- No increase in health care insurance premium cost to state and public school employees; 19.5 percent increase absorbed by the state at a cost of \$24.3 million.
- \$1.35 for state-run political primaries in August and \$1.1 million for the general election.
- 3.8 percent average pay raise for public school teachers, maintaining salaries at the Southeastern average of \$29,403.
- Education Finance Act (EFA) new basic student cost of \$1,585 established with a 3.1 percent inflation factor.
- Average 3 percent pay raise for school bus drivers.
- Higher education formula funded at 72 percent.
- Annualizes the cost of 806 nursing home beds with 154 beds to be constructed.
- Third prescription and medically needy programs funded with about 15,000 new clients to be added. Twelve annual prenatal care visits funded.

### Provisos

- Extends the deadline on the closing of the Barnwell facility from Dec. 31 to Jan. 1, 1996. Good neighbor policies for nuclear, hazardous and solid waste disposal included.
- Creates a tax check-off for Eldercare Trust Fund.



## Legislative Update, June 9, 1992

Consolidated Governments (H.3681, Rep. Waites). The intent of this act is to provide a method of creating consolidated governments to fulfill the unique needs and demands of various county areas. This act provides the enabling legislation setting out the procedure for counties, municipalities and other political subdivisions to provide for the joint administration of any function. This act specifically prohibits the abolishment of any constitutional office by consolidation.

Under this legislation, the county governing body would create a 18-member consolidated government charter commission to draw up the provisions of the consolidation. This commission could be created only upon the request of the county government or the petition of at least 10 percent of the county's registered voters.

Six of the 12-member commission will be appointed by the county. Four of these county representatives will have to live outside the limits of the county's largest municipality, and no more than two can be an elected official. Each special purpose districts (SPD) may have a representative on the commission according to an appointive index; however, no SPD may have more than four representatives on the commission. No more than two SPD officers may sit on the commission. The act also says that every charter commission must have at least one SPD representative if there is a special purpose district within the county.

The remaining six commission members will be municipal residents, appointed according to the appointive index outlined in the act. However, no single municipality could appoint more than four members to the commission, and only two elected municipal official will sit on the commission.

If a municipality or SPD refuses to appoint their proportionate number of representatives, the county governing board may fill those positions.

The commission will draft a proposed charter to provide for the abolishment of specified governments within the county and for the creation of a new single countywide government and the transfer of all powers and obligation of the governments to be consolidated.

The charter also would call for all old public offices and government positions to be abolished, except constitutional officers, judges and school board members or school district employees.

The act establishes the membership of the consolidated governing board, the employee positions and offices to be set up under the new government, and the assumption of all obligations and indebtedness. Special purpose districts could be authorized to continue to perform their functions.

The charter speaks to tax levying and tax districts, and the method by which the charter could be amended or dissolved. However, once a consolidated political subdivision is formed it cannot be dissolved for four years.

The commission must complete its draft charter within a 12 month period. It then will be required to hold three public hearings and a county-wide referendum on the issue.



## Legislative Update, June 9, 1992

The charter commission would have to decide how the consolidation question would be approved by voters: either by majority approval of the voters, or if the referendum is approved county-wide, but rejected by the voters in a municipality or special purpose district, then charter would have no effect on that municipality or special purpose district.

If the consolidated vote is not successful, it cannot be presented to the voters again for four years. The county must bear the expense of the referendum.

The consolidated government goes into effect when the members of the new consolidated government board are elected.

Signed into law 4-8-92.

State-Run Primary Elections (S.362, Sen. Holland). This legislation authorizes the State Election Commission and the respective county election commissions to conduct primary elections instead of the political parties. The exception is municipal elections. The primary election date remains the second Tuesday in June, under this legislation. Political parties certify the names of all candidates for the primary with the State Election Commission or county election commissions not later than May 1 for the June primary. Filing fees, which go for paying for the primary election, are set at one percent of the total salary for the term of that office or \$100, whichever is greater.

The State Election Commission and the respective county election commissions are responsible for preparing the primary election ballots. The legislation also stipulates how precinct managers will be chosen and challenges handled. This legislation still allows political parties to hold presidential preference primaries.

Signed into law 2-19-92.

State Grand Jury Revisions (S.555, Sen. Pope). This legislation will broaden the scope of the statewide grand jury to investigate criminal activity relating to public corruption and election law violations. The state grand jury currently has the authority to investigate crimes involving multi-county drug trafficking and obscenity offenses.

Signed into law 5-4-92.

DSS Board Resolution (H.4321, Rep. McAbee). This joint resolution dissolved the South Carolina Board of Social Services and directed the General Assembly to elect new members to the DSS board. Further, all powers and duties of the DSS board were temporarily transferred to the State Budget and Control Board.

## Legislative Update, June 9, 1992

The Budget and Control Board also appointed an interim director who reported directly to the Budget and Control Board. Former DSS Commissioner James Solomon could remain at his salary as a consultant until his resignation.

The resolution also placed the county DSS directors directly under the authority of the DSS commissioner until the General Assembly takes other action on this issue. The county DSS boards serve the county directors purely in an advisory capacity.

When the joint resolution was approved by the General Assembly, DSS was running a deficit in excess of \$15 million. The resolution states that the General Assembly is "gravely concerned with the refusal of the current South Carolina Board of Social Services to fulfill even its most basic statutory duties and its refusal to work effectively with the agency's own employees, to cooperate with other agencies and branches of state government, and importantly, to cooperate with and assist the General Assembly and the Executive Branch in efforts to help resolve the many financial and organizational problems of the State Department of Social Services."

The resolution further states that the "continual lack of leadership and poor judgment" demonstrated by the DSS board and its "shocking misuse of public resources" has created "a crisis for state government."

DSS recently announced that under the direction of the new commissioner, the department's deficit had been eliminated.

Signed into law 3-5-92.

Additional Requirements for Home Schooling (H.4114, Rep. Wright). This legislation proposes that home instruction taught by parents under the auspices of the S.C. Association of Independent Home Schools be allowed under the current Home Schooling statutes.

The act requires that parents be bona fide members of the association and comply with the association's academic standards to be exempted from meeting further state-mandated requirements under the Home school statutes.

The State Department of Education will annually review the standards of the association to ensure they meet certain requirements, including that the parent instructing children at home hold a high school diploma or a GED certificate, that instruction be conducted for a minimum of 180 days each year, and that the association standards comply with basic instructional areas.

Signed into law 4-8-92.



Legislative Update, June 9, 1992

Encouraging Post-Secondary Education (S.361, Sen. Setzler). The purpose of this legislation is to encourage more high school students in South Carolina to go on to college by making sure parents and students receive information on the courses required for college entrance and the financial aid available.

Under the provisions of this act, which would be added as part of the Education Improvement Act, the state Commission on Higher Education will work with state and private higher education institutions to develop an information package on college opportunities in South Carolina, the course requirements for college admission and the financial aid available. The information will be for distribution to 8th grade students and their parents. The information packages will be pilot tested in a number of school districts, with the Higher Education Commission reporting back the results to the House and Senate Education committees.

In addition, the commission will work with the public and private higher education institutions to provide yearly small group and one-to-one counseling sessions to explain to 8th grade students and their parents the educational opportunities open to them at the post secondary level. These will be held at each public school that has an 8th grade. These counseling sessions will be available during a time promoted as "Education Options Week."

Public schools and public school districts will work with the commission on coordinating the information packages and sessions for their 8th graders and parents. And businesses will be encouraged to allow their employees to participate in these session with their 8th grade children.

Signed into law 2-26-92.

School Breakfast Program (H.4005, Rep. Jimmy Bailey). This joint resolution requires all school districts in the state to implement in each school a school breakfast program beginning with the 1993-94 school year. The State Department of Education may grant a school district a waiver if the breakfast program would cause severe scheduling hardships or require the purchase of equipment that would cause severe hardship.

The joint resolution notes of the 701 "severe need" schools in the state -- those in which at least 40 percent of the students qualify for free or discounted lunches -- 112 do not have a school breakfast program. Another 108 schools, which have between 25 and 40 percent of their students eligible for free or discounted meals, also do not have a breakfast program. The legislation points out that studies have shown hungry children have lower achievement test scores, are tardy more often and have more health problems. The joint resolution also notes that the USDA reimburses schools 90 cents for free breakfasts and 60 cents for discounted breakfasts. Through federal reimbursements for these meals, the state will receive an estimated \$9.3 million in additional revenue, according to the legislation.

Signed into law 3-26-92.



Legislative Update, June 9, 1992

Dangerous Animal Act (H.3777, Rep. Cromer). This legislation would broaden the provisions of the dangerous dog law to include dangerous animals, not just dogs. The act defines a dangerous animal as that which the owner knows has a propensity to attack, or makes unprovoked attacks causing bodily harm, or primarily is kept for fighting. The act specifically excludes agricultural animals from the definition, or an animal that attacks a trespasser. The legislation also states that an animal is not classified as dangerous by virtue of its breed or species.

Dangerous animals must be confined on the owner's property and the animal may not leave the premises unless safely restrained. The act gives law enforcement the authority to impound an dangerous animal not confined as required by this act while a trial is pending.

The act upgrades violation of the dangerous animal provisions from a misdemeanor to a felony for attacks on humans. First offense violation for an attack causing bodily harm to a person would bring a \$5,000 fine, or a jail term of 36 months. Second offense punishment would be punishable by a \$10,000 fine or up to five years in jail.

An attack by a dangerous animal on another animal is a misdemeanor carrying a \$200 fine or 30 days in jail. Subsequent offenses would result in a \$1,000 fine, none or which may be suspended or remitted.

The animal owner would be liable for the medical expenses of the victim of an attack and the expenses of the local government for seizing the animal.

Owners of dangerous animals will have to register the animal with the local county law enforcement agency and provide proof of holding at least \$50,000 in liability insurance. The local government must provide the owner with a metal identification tag, which must be worn by the animal at all times. Public personnel, such as law enforcement, firemen, utility workers and postal employees, are authorized to use reasonable force to repel an attack. Further, the public employee is not liable for damages taken to repel the attack.

Signed into law 5-19-92.

Homicide by Child Abuse (H.4432, Rep. Wilkins). This legislation creates a new felony -- homicide by child abuse. A person who causes the death of a child under the age of 11 through child abuse or neglect or "under circumstances manifesting an extreme indifference to human life" would be guilty of this crime. In addition, a person who knowingly allows the abuse or neglect resulting in the death could also be charged. Conviction or a guilty plea would result in a 20 year to life sentence for committing the act, and a 10 to 20 year sentence for knowingly allowing the death.

## Legislative Update, June 9, 1992

The legislation specifically notes that in sentencing the judge could consider any aggravating circumstances, including the defendant's past history of child abuse. However, the bill states that a child's crying would not constitute provocation so as to be a mitigating circumstance.

**Status:** Signed into law 6-2-92.

**Crime of Stalking** (H.4086, Rep. Rudnick). Under this bill, it would be a crime to wilfully, maliciously and repeatedly follow or harass another person and make a credible threat with the intent to place that person in reasonable fear of death or great bodily injury. This crime would carry up to a year in prison and/or up to a \$1,000 fine. A person under a restraining order and who repeatedly follows or harasses another person and makes a credible threat is also guilty of stalking. This offense would carry a fine of \$1,000 and/or two years in jail.

A person could be charged with stalking again if similar incidence occur within seven years of the first incidence in which the person was convicted of the crime. The legislation specifically says this offense would not pertain to labor picketing.

**Status:** Signed into law 6-1-92.

**Housing Trust Fund Act** (S.1446, Sen. Lourie). This legislation would establish the S.C. Housing Trust Fund, which will be used to increase the supply of safe, decent and affordable housing to members of the very low or lower income households. Funding will be used to make loans, grants or provide for matching funds to secure financial assistance for affordable housing. No project or development could receive money from the fund unless the housing units are reserved exclusively for the use of members of very low or low income households for at least 30 years.

The state treasurer will be the trustee of the fund, which must be maintained separately from the General Fund. The money will be dispersed only with the signature of the chairman of the S.C. State Housing Finance and Development Authority and the board's executive director. A nine-member advisory committee will be created to advise the board on particularly critical housing needs. At least two of the board members must represent low income groups.

The board's executive director will develop a comprehensive program for the use of the funds to ensure equitable distribution of the money between urban and rural areas, devise and implement an application system, provide technical assistance to applicants, and ensure all developments receiving assistance comply with the state's Fair Housing Act. Monies granted for implementation of an affordable housing project must go to non-profit groups only. No more than 20 percent of the money available from the trust fund in a fiscal year could go to any one county.



Legislative Update, June 9, 1992

The Housing Trust Fund will receive funding from the sale of deed stamps -- 20 cents of the deed stamp on those sales of over \$100 but not exceeding \$500 and 20 cents of the tax on each additional increment of \$500 would go to the Housing Trust Fund.

Status: Signed into law 6-2-92.

Handicapped Parking Penalties (H.3550, Rep. Cromer). This legislation will substantially increase the fines for violation of the handicapped parking laws. Parking fines will be raised from the current \$25 to a fine of not less than \$100 to not more than \$200 or 30 days in jail for each offense.

In addition, the act will change the special restricted driver's license issued for controlled substance violations to allow students enrolled in a college or university to drive back and forth between classes or jobs during the time their regular licenses are suspended.

The legislation also authorizes the use of a uniform parking ticket for handicapped parking violations on public or private property by all law enforcement or security officers. The uniform parking ticket will allow for the tracking of violators by tag number and recording the violation with the State Highway Department's division of motor vehicles. The legislation spells the punishments for unaccounted tickets or for failure to forward tickets in a timely manner.

Status: Signed into law 6-2-92.



## Legislative Update, June 9, 1992

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The following bills have been ratified; however, no action had yet been taken by the governor by the publication date.

Felony and Misdemeanor Classification Bill (H.3400, Rep. Wilkins). This bill, written by the Sentencing Guidelines Commission, would place approximately 700 criminal offenses with a maximum term of one year or more into different categories based on the seriousness of the offense. The bill specifies nine categories of offenses -- six felonies and three misdemeanors. Each of the categories carries a maximum term of imprisonment.

Status: Passed the House 5-2-91; passed in Senate 5-14-92;  
ratified 6-4-92.

Sunscreens and Motor Vehicles (S.1310, Sen. J. Verne Smith). The provisions of this legislation apply only to sunscreen devices not installed at the factory; if no after-the-factory installed sunscreen devices has been added to the vehicle the light transmission provisions of the act do not apply.

The legislation amends the 1988 sun screening provisions and allow for darker window tinting on motor vehicles. The act decreases the allowable light transmission through tinted windows from not less than 35 percent to not less than 27 percent.

Each vehicle equipped with after-factory sunscreening devices, whether installed by the consumer or professional tinter, must bear a certificate of compliance. The certificate, to be designed by the State Highway Department, must be displayed on the lower right hand corner of each window with a sunscreen device.

Each certificate of compliance must describe the percentage of light transmission, the identity of the installer including name, address and telephone number, and the date of installation. Manufacturers that provide suncreening devices for sale to consumers must provide the certificate of compliance. The manufacturers also must include instructions for the proper installation of the sunscreen.

The legislation allows tinting on windshield, but not below the AS1 line. If the AS1 line is not visible, then no sunscreening device could be placed on the windshield. The act also allows tinting on the side windows and side wings of the vehicle as long as the light transmission is not less than 27 percent. If a sunscreening device with not less than a 20 percent light transmission are used on the rear-most window, the vehicle must have a right and left outside rearview mirror. Beginning January 1, 1993, any single sunscreening device applied to the rear most window of a vehicle must not be less than 27 percent.

## Legislative Update, June 9, 1992

A vehicle with sunscreening devices with not less than 20 percent light transmission but complies with the outside rearview mirror provisions on January 1, 1993 is not considered to be in violation as long as the original sunscreen is in place. These provisions apply to the windows behind the driver's of pick-up trucks, but not the behind-the-driver windows of trucks, buses, trailers, mobile homes or recreational vehicles.

A professional window tinter who violates these new provisions must be tried in magistrate's court on a misdemeanor charge and fined not less than \$1,000 and/or jailed for not more than 30 days for each offense. A consumer who violates the certificate of compliance provisions is guilty of a misdemeanor, triable in magistrate's court, carrying a fine of \$200 or 30 days in jail for each offense.

Drivers requiring the suncreening for medical reasons must have an affidavit from a physician or optometrist in the vehicle at all times to be shown to a law enforcement officer upon request. The affidavit must be updated every two years.

The Highway Department is directed to promulgate regulations prescribing the enforcement of this legislation including the procedure and mechanism to measure light transmission. Inspection stations would not be required to test light transmission for purposes of enforcing these provisions.

**Status:** Passed the Senate 3-12-92; passed the House 5-27-92; ratified 6-4-92.

**S.C. Prepaid Postsecondary Education Expense Program** (H.3364, Rep. Kirsh). The legislation directs the State Commission on Higher Education to study and make recommendations on the "appropriate elements" for a South Carolina Prepaid Postsecondary Tuition Plan. The commission will make its recommendations to the General Assembly by January 15, 1993.

**Status:** Passed by the House 5-14-91; passed by the Senate 4-30-92; ratified 6-4-92.

**Offender Management Act** (S.883, Sen. J. Verne Smith). The Offender Management System was designed to reduce South Carolina's serious prison overcrowding problem. A prisoner can qualify for the system only if he has committed one or more of a specified list of non-violent crimes. Prisoners who have been sentenced to more than five years of incarceration are ineligible for consideration. Inmates also must have a clean disciplinary record for at least six months to be eligible for the program.

Three members of the Parole Board, designated by the governor, must review and approve the offenders going into the system. Enrollment can be denied based on a statement given by a victim or witness.



## Legislative Update, June 9, 1992

Offenders first will go to a reintegration center operated by the Department of Corrections. At the reintegration center, the offender will be evaluated to determine which form of supervision would be most appropriate for him while he is in the community.

Once the offender is in the community, he remains under the supervision of the Department of Probation, Parole and Pardon Services. He could be required to participate in substance abuse programs, public service work programs, home detention, intensive supervision, or other control strategies. Offenders who violate provisions of the OMS can be removed from the system, and transferred back to the Department of Corrections.

The system must not be initiated until it has been appropriately funded. No funding has yet been provided for the OMS. Once the system has been funded, the governor has the power to shut down the program at any time he feels that the public's safety is in danger. The Offender Management System will terminate in three years unless it is extended by the General Assembly.

Status: Passed the Senate 4-26-91; passed the House 1-30-92; ratified 6-4-92.

Assessment Reports for State Agency Regulations (H.4571, Rep. Wilkins). This legislation requires that state regulations that have a substantial economic impact have an assessment report attached upon written request of two legislators. Substantial economic impact, under this legislation, means financial impact upon commercial enterprises, retail businesses, service businesses, industry, consumers of a product or services or taxpayers.

The state agency would submit a preliminary assessment report on regulations with significant economic impact to the Division of Research and Statistical Services. The division would issue a final assessment report within 60 days of a public hearing.

The assessment report would disclose the impact of a proposed regulation on the economic and environmental welfare of a community and the state, in addition to the effects of the economic activities arising out of the proposed regulation. Information in an assessment report must include: a description of, and the need for, the regulation; a determination that the regulation is the most cost-effective, feasible method; a cost-benefits analysis; the effect of the regulation on competition; its effect on the cost of living and doing business in the geographical area where the regulation would be implemented, the source of revenue for its implementation; the effect of the regulation on employment; its impact on public health and the environment; any detrimental effect on the environment if the regulation is not implemented; and a conclusion on the short and long term economic impact on the people affected. The assessment could not consider the benefits or burdens on out-of-state political bodies or businesses.



## Legislative Update, June 9, 1992

Regulations dealing with hunting and fishing would not need assessment reports. Neither would assessments be needed for regulations required under federal law unless the state regulation would be more stringent than the federal regulation. Emergency regulations also would be exempt under provisions of this bill.

All joint resolutions approving or disapproving an agency resolution must have attached a brief synopsis of the regulation and the final assessment report if required. Regulations submitted to the General Assembly without an assessment report because the regulation will have no significant economic impact must have a statement attached to that effect.

**Status:** Passed the House 5-7-92; passed the Senate 6-3-92; ratified 6-4-92.

Mental Retardation As A Mitigating Circumstance (H.3095, Rep. Pat Harris). This act adds mental retardation as a mitigating circumstance which a jury may consider while deliberating during the sentencing phase of a death penalty trial.

**Status:** Passed the House 2-19-92; passed the Senate 5-19-92; ratified 6-4-92.

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The following bills were passed by the General Assembly but vetoed by the Governor.

House Reapportionment Bill (H.3834, Rep. Wilkins). This legislation reapportions the S.C. House of Representatives in accordance with the 1990 U.S. Census figures. According to the Census figures, each House district should have a population of 28,118 in order to comply with the federal court "one man, one vote" rulings. Although the total number of House districts stays at 124, this legislation created two new districts -- one in Dorchester and other mostly in Horry County.

Due to the gubernatorial veto of this bill, the U.S. District Court reapportioned the S.C. House. The court's reapportionment plan was released this month.

**Ratified 1-23-92; vetoed 1-29-92.**

Legislative Update, June 9, 1992

Senate Reapportionment (S.1003, Senate Judiciary Committee). This legislation reapportioned the state Senate according to the 1990 U.S. Census figures. The bill, too, was vetoed by the governor. The Senate also recently received the federal court plans reapportioning its 46 seats.

Ratified 1-23-92; vetoed 1-29-92.

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PLEASE NOTE

THIS WILL BE THE LAST EDITION OF THE WEEKLY *LEGISLATIVE UPDATE* UNTIL THE 1993 LEGISLATIVE SESSION. THE *UPDATE* WILL BE PUBLISHED AND MAILED TO HOUSE MEMBERS ON AN INTERMITTENT BASIS DURING THE INTERIM.

THE 1992 *POST SESSION REPORT* WILL BE PUBLISHED AND DISTRIBUTED TO HOUSE MEMBERS IN AUGUST.

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## Legislative Update, June 9, 1992

### Left on the Senate Calendar

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The following bills were left pending on the Senate calendar and died with sine die adjournment.

Executive Cabinet (H.4334, Rep. Wilkins). This joint resolution proposes a constitutional amendment to create an executive cabinet of the governor consisting of 15 members by January 15, 1995. The joint resolution states that the 15 cabinet members would act as heads of departments "organized as far as practicable according to major purposes and functions as determined by the General Assembly." The department heads would be appointed by the governor with the advice and consent of the General Assembly, whose voting on the matter must be recorded. No person, or member of his family, who has contributed \$1,000 or more to the governor in a one year period, may be appointed to a cabinet position.

The proposed amendment for a cabinet form of government would be submitted to the voters in a statewide referendum during the November general election if the joint resolution is passed by the Legislature.

Status: Passed the House 4-28-92.

Coin-Operated Machines (S.417, Sen. Waddell). Under the Senate amendments to the Video Poker bill, the number of machines located in any one business would be limited to nine, and no one under 21-years-old could play them. The bill also would prohibit a business to be operated solely for the purpose of playing video poker machines. The legislation would allow municipalities to charge more for license fees. The Senate also added an amendment to this bill eliminating the paying of state income tax for residents 65-years-old or older.

Status: Passed the Senate 2-19-91; amended and passed the House 4-16-91; House amendments amended by Senate, returned to the House 5-28-92.



## Legislative Update, June 9, 1992

Shorter Legislative Sessions (H.3127, Rep. Wilkins). This joint resolution proposes changing the constitution to allow the General Assembly to hold shorter sessions. Under this joint resolution, the Legislature would convene on the second Tuesday in February each year, instead of the second Tuesday in January. The Senate would also be required to have an organizational session following Senate elections like the one currently required of the House of Representatives.

Status: Passed the House 2-7-91.

Removal of Judges (H.4117, Rep. Kirsh). This joint resolution seeks to amend the state constitution to allow the state Supreme Court, after a hearing, to remove a judge from office for misconduct in office.

Status: Passed the House 2-27-92.

Drug Testing of State Employees (H.3515, Rep. Neilson). This legislation outlines the procedures to be followed for state employee drug testing and the testing of applicants for state jobs. The legislation addresses what procedures must be followed by employers when instituting drug testing for employees or applicants.

Status: Passed the House 5-7-91.

Legislative Adjournment and the Budget Process (H.3128, Rep. Wilkins). Under this proposed constitutional change, mandatory adjournment would be moved up one month to the first Thursday in May. In addition, this bill would change the times the state Board of Economic Advisors would issue their forecasts. The bill also would authorize the budget writing committees of the House and Senate to sit jointly to hold budget hearing, beginning on the second Tuesday in December.

Status: Passed the House 2-7-91.

School Children and Residency (H.3011, Rep. Kirsh). Under this legislation, current laws which allow children who own property in a school district to attend school in that district would be eliminated. If this bill is enacted, school children could attend public schools only in the districts in which they reside. This legislation has been considered in previous sessions.

Status: Passed the House 2-21-91.

## Legislative Update, June 9, 1992

Revision of the Board of Economic Advisors (H.4215, Rep. Sheheen). The composition of the Board of Economic Advisors would be revised under this legislation. Any governmental entity identifying or requesting a change in the official revenue and expenditure forecast would first notify the BEA chairman who would then notify the governor prior to any independent adjustments. The House Ways and Means and Senate Finance committees must be the next notified after the governor, and both committees must be informed simultaneously. The bill stipulates that the BEA meet quarterly, or at the call of the governor, General Assembly or chairman, or at the request of any board member who believes a meeting is necessary due to existing financial circumstances.

The bill also would require the board to monitor the flow of revenue for the current fiscal year in comparison to the revenue estimates. If the collections fall more than 1.5 percent below projections for the quarter, the BEA must prepare a synopsis which details the factors that contributed to the shortfall, the fiscal impact of the shortfall on the current and subsequent fiscal years, and whether collections will make up for the deficit. A similar report would be required if certain tax categories fall 1.5 percent below the projections.

Status: Passed the House 4-23-92.

School Prayer (H.4160, Rep. Meacham). This bill would authorize a one-minute period of silent prayer to be observed at the beginning of each school day in all public elementary and secondary schools in South Carolina. Students would participate on a voluntary basis. The bill does not authorize any teacher or student to use these provisions to promote any particular religious viewpoint.

Status: Passed the House 4-9-92.

Special Interest Caucuses (H.4290, Rep. Fulmer). The original provisions of this bill changed the definition of a legislative caucus to that which included a group of legislators committed to a particular subject or issue. This would have allowed a special interest caucuses to be lobbied and otherwise entertained by lobbyists and lobbyists' principals under the new Ethics law. However, the legislation, as passed by the House, eliminates caucuses altogether from the list of groups that legally may be offered food, lodging, transportation, entertainment or an invitation to a function by a lobbyist or lobbyist principal.

Status: Passed the House 4-22-92.

Vehicle Inspection (H.3092, Rep. Bruce). This legislation would repeal the state statutes requiring the inspection of vehicles.

Status: Passed the House 3-6-91.



Legislative Update, June 9, 1992

Informed Decision for Abortion Act (H.4331, Rep. Corning). No abortion could be performed or induced except with the voluntary and informed decision of the woman involved if this legislation is enacted.

Except in a medical emergency, an informed, voluntary decision for an abortion is defined in the bill as the woman being told by the performing physician, the referring physician or allied health professional of the medical risks associated with abortion and the probable gestation age of the fetus as the time of the abortion. The woman also would be informed that she has the right to review state-provided printed materials. Before the abortion is performed, the woman must state in writing that she has been informed of the listed factors. In the case of a mentally retarded woman, the woman's family may make the informed decision in connection with an abortion.

In an medical emergency, the doctor, if possible, would inform the woman of the medical indications that support the decision that an abortion is necessary. A person who performs an abortion without following the provisions of this legislation would be guilty of a misdemeanor.

Status: Passed the House 4-9-92.

LAC and Reorganization Study of Government Restructuring (H.4699, Rep. McElveen). Under this legislation, the Legislative Audit Council and the State Reorganization Commission would jointly study state government to make recommendations regarding:

- Changes making state government more efficient and accountable to the public;
- Elimination of unnecessary duplication of government services and administration by streamlining state government;
- Consolidation of agency functions and administration when consolidation would be both feasible and desirable;
- The desirability of implementing Total Quality Management (TQM) in state government; and
- A regency system of higher education and other organizational structures of other higher education systems.

The bill directs the LAC to make an audit of state government, and turn the information over to the Reorganization Commission to formulate recommendations as to any reorganization or consolidation of state agencies. The bill outlines a timetable for the two agencies to follow in carrying out the study.

Status: Passed the House 4-24-92.

Legislative Update, June 9, 1992

Left on the House Calendar

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The following were among the bills that died on the House calendar with sine die adjournment.

Barnwell Facility Deadline Extension Deadline (S.1327, Sen. Williams). This legislation would extend the deadline for the operation of the Barnwell Low Level Nuclear Waste Disposal Facility from December 31, 1992 to January 1, 1996.

Status: Passed the Senate 4-28-92; pending on the House contested calendar

Highway Department Reorganization (S.494, Sen. Lourie). This legislation restructures the State Highway Commission and how the State Highway Department is funded and disperses money.

Status: Passed the Senate 2-20-92; pending on the House contested calendar.

Consumer Freedom of Choice in Motor Vehicle Insurance (H.4521, Rep. Larry Martin). The legislation is designed to give motorists the right to choose between the kinds of personal protection available in case of an automobile accident and the amount of financial protection they think appropriate and affordable. The bill would eliminate the requirement of motorists to buy traditional fault liability insurance, and instead, motorists would have the opportunity to buy a policy to protect themselves and their families regardless of fault in an automobile accident. However, motorists could choose to retain their current right to sue and be sued in automobile accident liability cases. This concept of automobile insurance is commonly referred to as "No Fault Choice."

Status: Pending on the House contested calendar.



Legislative Update, June 9, 1992

Judicial Screening Changes (S.221, Sen. Bryan). Under this bill, four additional members would be added to the Judicial Screening Committee. Two of the new members would not be attorneys and the other two additional members would be members of the South Carolina Bar Association.

Status: Passed the Senate 3-26-91; pending on the House contested calendar.

Initiative Petitions (H.3211, Rep. Waites; H.4330, Rep. Clyborne). This legislation would establish the authority for citizens to initiate a law or constitutional amendment by petition.

Status: Pending on the House contested calendar.

Limitations on Terms in Office (H.3594, Rep. Cromer). This joint resolution would amend the state constitution to limit the number of consecutive terms served by legislators and statewide constitutional officers.

Status: Pending on the House contested calendar.

River Gravel Use Repeal (H.4765, Rep. Quinn). This joint resolution would repeal the 1992 act which directed the State Highway Department to use river gravel in asphalt used in projects approved by bid.

Status: Pending on the House contested calendar.

Automobile Insurance Underwriters Association (H.4687, Rep. Felder). This legislation would eliminate the Reinsurance Facility and replace it with the S.C. Automobile Insurance Underwriters Association. The underwriters association would use shared risk pooling, a method which would transfer risks to a common pool of shared market consumers with the experience of the pool allocated among the members.

Status: Pending on the House contested calendar.

Legislative Term Limitations (H.3424, Rep. Cato). Under this legislation, House members would be limited to six consecutive terms; state senators would be limited to three consecutive terms. Legislators would be eligible for additional terms if 25 percent of the voters in their district sign a petition requesting it.

Status: Pending on the House contested calendar.

## Legislative Update, June 9, 1992

### Left in House Committees

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Here are some of the bills that died in House standing committee with sine die adjournment.

Appointment of State School Superintendent (H.3117, Rep. Wilkins). This joint resolution amends the state Constitution by deleting the office of State Superintendent of Schools from the list of elected state offices and provides that the superintendent be appointed by the governor for a term coterminous with the governor's term.

Parental Responsibility Act (H.3417, Rep. Glover; H.3851, Rep. Wright). The purpose of this act is to better involve parents in educating and parenting their children and to ensure school attendance through the uniform handling and enforcement of non-attendance cases by the schools, the Departments of Social Services and Youth Services, solicitors and the courts.

Limit Terms on State Commission (H.3108, Rep. Keyserling). This bill is aimed at limiting the consecutive terms a person may serve on a state board or commission, whether it is by election of the General Assembly or gubernatorial appointment. Under this legislation, the person would be limited to two successive full terms or 12 years, whichever is longer. The exception would be if the person is paid an annual salary. The person may return to the board or commission after an absence of two years.

Recall and Removing Public Officials (H.3426, Rep. Baxley). Under this joint resolution, every person holding public office in the state would be subject to recall from office. Every registered voter in the state would be eligible to sign a recall petition. The basis for recall would be physical or mental lack of fitness, incompetence, violation of oath, official misconduct or conviction of a felony.



## Legislative Update, June 9, 1992

Freshwater Wetlands Regulation (H.3414, Rep. Sturkie.) This legislation is aimed at achieving the goal of "no net loss" of regulated wetlands, based on function and value, to be accomplished through a program of wetland classification and mitigation.

Hazardous Chemical Right to Know Act (H.3089, Rep. T. Rogers). This legislation would address an employee's and the community's right to know what hazardous chemicals are being used, stored or manufactured in their place of employment or community.

Toxic Use Reduction Act (H.3153, Rep. McElveen). This lengthy bill would encourage the reduction of toxic waste generated in the state and prohibit state agencies from adopting any plan or policy that would be less protective of the environment than is required under any federal law, plan or policy.

Compliance History Before Permitting (H.4419, Rep. Kempe). Under this bill, the state Department of Health and Environmental Control would require an applicant, whether person or company, to provide information about their past compliance history when applying for a permit to operate in South Carolina.

Hazardous Waste Permitting Investigations (H.4421, Rep. Sheheen). This legislation would add a number of new provisions that would beef up the state's hazardous waste laws. The provisions of this legislation include: making the hazardous waste generator liable for transgressions occurring during the shipping of the waste to the disposal site; allowing DHEC to charge fees to cover the cost of evaluating permit and renewal applications or the cost of investigating violations; requiring an applicant to show the need for a facility when applying for a permit; requiring all waste facility permits to be renewed every 5 years; making it illegal to dispose of any waste except hazardous waste in a hazardous waste disposal facility; strengthening the enforcement action that can be taken by the State Attorney General; and requiring additional fines to be paid to the Hazardous Waste Contingency Fund.

Public School Choice Act (H.3087, Rep. Jaskwhich). Under this legislation, students could choose to attend a public school outside their district. However, a school district could vote not to admit any nonresident students.

## Legislative Update, June 9, 1992

Fuzzbuster Ban (H.3588, Rep. Sheheen). This bill would make it illegal for a person to operate a motor vehicle in South Carolina equipped with an operational radar detector. The legislation also would make the sale of the devices illegal.

SHIMS Fund Repeal (H.4378, Rep. Jimmy Bailey). This legislation would repeal the Strategic Highway Plan for Improving Mobility and Safety (SHIMS) program, its Select Oversight Committee and the Economic Development Account. In its place would be established a state highway bond fund and a state highway bond fund debt service account, funded by the gas tax. These accounts would be separate and distinct from the State Highway Department's general fund and highway fund.

Driver's Education (H.4320, Rep. Jimmy Bailey). The state's vocational schools would be required to establish driver training and defensive driving courses if this legislation is enacted. In addition, the bill would raise the driving age to 17-years-old for a regular driver's license and to 16-years-old for a beginner's permit. All high school students would be required to take driver's training. In addition, those drivers who had their license suspended or revoked would have to show proof of completing a driver's education or defensive driving course when they apply for reinstatement.

Failure to use a seat belt in a motor vehicle would go from a secondary enforcement offense to a primary enforcement offense if this legislation passes.



Legislative Update, June 9, 1992

Tabled in the House

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The following bills were tabled either on the House floor or in a House committee.

Human Life Protection Act (H.3652, Rep. Beasley). This legislation would ban abortions in South Carolina under any circumstances except to save the life of the mother.

Ban on Corporal Punishment (H.3314, Rep. Rama). Corporal punishment in the public schools would be prohibited under this legislation.

No Gender Discrimination at the Citadel (H.3150, Rep. Manly) Under this legislation, all state-supported institutions of higher learning in South Carolina would have to admit students regardless of their sex, race, religion or national origin. The legislation states that these institutions should maintain admissions policies "which insure that post-secondary educational opportunities are not denied to anyone."

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